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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA

- v. -

JAMES WASHINGTON,
a/k/a "Harlem,"

Defendant.
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: **PRELIMINARY ORDER OF**
: **FORFEITURE AS TO**
: **SUBSTITUTE ASSETS**
:
: S1 09 Cr. 801 (RMB)

WHEREAS, on or about November 18, 2009, the defendant, among others, was charged in a one-count Superseding Indictment, S1 09 Cr. 801 (RMB) (the "Indictment"), with conspiring to conduct, finance, manage, supervise, direct and own all and part of an illegal gambling business, in violation of Title 18, United States Code, Section 371 (Count One);

WHEREAS, the Indictment included a forfeiture allegation seeking forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, of all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the gambling offense charged in Count One of the Indictment, including but not limited to at least \$9,176,571 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the gambling offense alleged in Count One of the Indictment, and property used in the commission of the gambling offense;

WHEREAS, the Indictment also included a substitute asset provision providing notice that if as a result of the defendant's actions or omissions forfeitable property is unable to

be located or obtained the United States will seek, pursuant to Title 21, United States Code, Section 853(p), the forfeiture of any other property of the defendant;

WHEREAS, on or about October 20, 2010, a jury in the Southern District of New York found the defendant guilty of the offense charged in Count One of the Indictment;

WHEREAS, on or about February 3, 2011, the Court entered an Order of Forfeiture (the "Order of Forfeiture") imposing a \$1,152,523.70 money judgment against the defendant (the "Money Judgment");

WHEREAS, to date, the defendant has paid \$1,752.25 in United States currency towards the outstanding money judgment;

WHEREAS, as a result of acts and omissions of the defendant, the Government, despite its exercise of due diligence, has been unable to locate or obtain the proceeds of the offense of the defendant's conviction; and

WHEREAS, the Government has identified the following specific assets in which the defendant has an ownership interest:

- a. \$9,250.62 in United States currency in the possession of the United States Marshals Service, representing the portion of payments made by the Social Security Administration to defendant from January 2016 through July 2020 that was intercepted by the Treasury Offset Program; and *has stated that the TOP will never offset a monthly social security payment that is equal or less than \$750.00; and*
- b. The portion of any and all future disbursements from the Government to the defendant, including but not limited to income tax return refunds and Social Security payments, which may be intercepted by the Treasury Offset Program, up to the amount of the outstanding Money Judgment.

(collectively, the "Substitute Assets")

NOW IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. All of the defendant's right, title and interest in the Substitute Assets is hereby forfeited to the United States of America, for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853(n).

2. Upon entry of a Final Order of Forfeiture, the Substitute Assets shall be applied towards the Money Judgment entered against the defendant.

3. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States shall publish for at least thirty (30) consecutive days on the official government internet forfeiture site, www.forfeiture.gov, notice of this Preliminary Order of Forfeiture as to Substitute Assets and provide notice that any person, other than the defendant in this case, claiming an interest in the Substitute Assets must file a petition within sixty (60) days from the first day of publication of the notice on this official government internet site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

4. The notice referenced in the preceding paragraph shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Substitute Asset, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in the Substitute Asset and any additional facts supporting the petitioner's claim and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

5. The United States may also, to the extent practicable, provide direct written notice to any person, other than the defendant, known to have an alleged interest in the Substitute Asset, as a substitute for published notice as to those persons so notified.

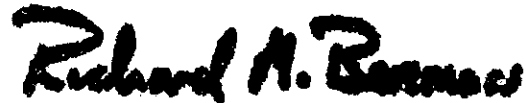
6. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Substitute Asset, pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

7. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture as to Substitute Assets, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

8. The Clerk of the Court shall forward four certified copies of this Preliminary Order of Forfeiture as to Substitute Assets to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York, 10007.

Dated: New York, New York
August 6, 2020

SO ORDERED:

A handwritten signature in black ink, reading "Richard M. Berman". The signature is written in a cursive, slightly stylized font.

HONORABLE RICHARD M. BERMAN
UNITED STATES DISTRICT JUDGE